

GAO

Report to Congressional Requesters

October 2000

FOREIGN ASSISTANCE

Any Further Aid to Haitian Justice System Should Be Linked to Performance-Related Conditions



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Contents

Letter	3
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Appendixes	
Appendix I: U.S. and Other Donors' Assistance to the Haitian Police, Fiscal Years 1995-2001	24
Appendix II: U.S. and Other Donors' Assistance to the Haitian Judicial Sector, Fiscal Years 1993-2001	28
Appendix III: The Haitian Justice System Organization	35
Appendix IV: Comments From the Department of State	38
Appendix V: Comments From the U.S. Agency for International Development	40
Appendix VI: GAO Contact and Staff Acknowledgments	42

Bibliography	44
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Tables	
Table 1: International Criminal Investigative Training Assistance Program Assistance to the Haitian Police, Fiscal Years 1995-99	24
Table 2: USAID Administration of Justice Program Assistance to Haitian Judicial Sector, Fiscal Years 1993-2000	28
Table 3: Assistance Provided by the United States and Other Donors to the Haitian Judicial Sector, Fiscal Years 1993-2001	33

Abbreviations

USAID U.S. Agency for International Development



United States General Accounting Office
Washington, D.C. 20548

October 17, 2000

The Honorable Jesse A. Helms
Chairman
Committee on Foreign Relations
United States Senate

The Honorable Benjamin A. Gilman
Chairman
Committee on International Relations
House of Representatives

In September 1994, the United States and other countries intervened militarily in Haiti—the poorest country in the Western Hemisphere—to restore the democratically elected government that had been overthrown by the Haitian military in September 1991. Soon after the intervention, the United States and other donors sought to help Haiti improve its justice system as a way of strengthening democracy, promoting development, and ensuring respect for human rights. At that time, this system's institutions were in disarray. Arbitrary arrests, lengthy pretrial detentions, widespread corruption, and lack of transparency (openness) in administering justice were endemic in Haiti. Consistent with its justice assistance objectives in other countries in the hemisphere,¹ the United States provided assistance to Haiti aimed at developing a professional civilian police force, enhancing the effectiveness of existing judicial organizations, and improving the access of the population to justice. This assistance also aimed at supporting a broad reform of the judicial sector that the Haitian government might pursue over time.

Since fiscal year 1995, the United States has provided about \$97 million in assistance to improve the Haitian justice system, mainly through programs administered by the Department of Justice and the U.S. Agency for International Development.² At the end of July 2000, the United States suspended all of its assistance to the Haitian judicial sector because the

¹ See *Foreign Assistance: Rule of Law Funding Worldwide for Fiscal Years 1993-98* (GAO/NSIAD-99-158, June 30, 1999); *Foreign Assistance: U.S. Rule of Law Assistance to Five Latin American Countries* (GAO/NSIAD-99-195, Aug. 4, 1999); and *Foreign Assistance: Status of Rule of Law Program Coordination* (GAO/NSIAD-00-8R, Oct. 13, 1999).

² This amount does not include the \$1.1 billion spent by the U.S. military, mostly during fiscal years 1994 and 1995.

United States and Haiti were not able to reach an agreement for continuing the assistance. As of September 2000, most U.S. assistance to the Haitian police had stopped due to congressional concerns related to events surrounding the May 2000 Haitian parliamentary and local elections.

At your request, we examined the U.S. assistance provided to Haiti for improving its justice system, including its police and judicial sector, since 1995. Specifically, we identified (1) the results of this assistance and any major problems that continue to affect justice institutions and (2) the factors that have affected the success of the assistance. We summarized the U.S. assistance provided to the Haitian police and to the judicial sector in appendixes I and II. In these appendixes, we also include information on the other donors' assistance to these justice institutions. We describe the organization of the Haitian justice system in appendix III.

Our work was based on meetings with officials of the U.S. Departments of State and Justice, the U.S. Agency for International Development, the U.S. Coast Guard, and other U.S. agencies. To examine the results of the assistance, in June 2000 we went to Haiti, where we met with officials of the Haitian government, other donor countries (Canada and France), the United Nations, nongovernmental organizations, and U.S. Agency for International Development contractors. We also performed an extensive review of program documents.

Results in Brief

Over the last 6 fiscal years, the United States provided assistance to help Haiti establish its first civilian-controlled police and improve some aspects of the judicial sector and the access of the population to justice services. About \$70 million in U.S. assistance helped Haiti recruit, train, organize, and equip a basic police force, including specialized units, such as an antinarcotics unit, a special investigative unit, and the Haitian Coast Guard. During the same period, the United States provided about \$27 million in assistance that led to some improvements in the training of magistrates and prosecutors, the management practices of judicial institutions, and the access of the population to justice services. However, despite these achievements, the police force has not effectively carried out its basic law enforcement responsibilities, and recent events suggest that politicization has compromised the force, according to U.S. and other donor officials. The judicial sector also has serious weaknesses, including lack of independence from the executive branch, outdated legal codes, cumbersome judicial proceedings, personnel shortages, inadequate infrastructure and equipment, and an ineffective internal oversight

organization unable to stem corruption, according to U.S. and other donor officials. Overall, this sector provides justice services to only a small segment of the population because, among other things, the sector still relies heavily on the use of French in judicial proceedings rather than Creole—the language of the majority of the population.

The Haitian government's lack of a clear commitment to addressing the major problems of its police and judicial institutions has been the key factor affecting the success of the U.S. assistance provided to these institutions. U.S. assistance to the police has been impeded because the Haitian government has not acted, for example, to (1) strengthen the police organization by filling currently vacant key leadership positions, such as the Inspector General and the heads of many field units; (2) provide the human and physical resources needed to develop an effective police force; (3) support vigorously police investigations of serious crimes; and (4) keep the police force out of politics. U.S. assistance to the judicial sector has been undercut because the Haitian government has not, for instance, (1) followed through the broad reform of the judicial sector needed to address its major problems, (2) assumed ownership of many of the improvements made possible by U.S. assistance, and (3) provided the physical and human resources needed to operate the sector effectively.

In this report, we recommend that, if the United States decides to provide any further assistance to the Haitian police and judicial sector, the Secretary of State provide this assistance with specific, performance-related conditions to ensure that Haiti takes the necessary steps to strengthen these justice institutions. We obtained written comments from the Department of State, which agreed with our report and recommendation. We also obtained written comments from the U.S. Agency for International Development and oral comments from the Department of Justice. These agencies also agreed with the information presented in the report.

Background

Prior to the U.S.-led military intervention in Haiti in September 1994, the Haitian military controlled the police and the judicial sector. According to U.S. officials, these justice institutions were ineffective and corrupt, and the population had little access to justice. Military and political cronyism dominated these justice institutions, with the military providing police services throughout the country, staffing police positions, and influencing appointments of magistrates and the decisions they made.

Following the 1994 intervention, the United States and other donor countries sought to enhance democracy, development, and human rights by supporting the Haitian Ministry of Justice, the police, the judicial sector, prisons, and nongovernmental groups. From fiscal years 1995 through 2000, the United States extended its assistance to the Haitian police and judicial sector primarily in the form of training, technical advice, equipment, and related support. Similar to assistance efforts provided in other countries, the United States provided assistance to the Haitian justice system without specific conditions for implementing the assistance, such as requiring the Haitian government to adopt and fund improvements made possible by the assistance. The U.S. Agency for International Development (USAID) and two organizations within the Department of Justice's Criminal Division—the International Criminal Investigative and Training Assistance Program and the Office of Overseas Prosecutorial Development, Assistance and Training—implemented the majority of this assistance. The Department of State has overall responsibility for coordinating the U.S. assistance to the Haitian police and judicial sector. It also funds training programs implemented by U.S. law enforcement agencies and, immediately after Haiti's return to democracy in 1994, carried out some training programs, mainly in support of the Presidential Palace Guard, which provides protection for the Haitian President.

Several other U.S. agencies have also been involved in supporting the Haitian police. For example, the U.S. Coast Guard helped to build the Haitian Coast Guard—a main component of the Haitian police. Also, the Drug Enforcement Administration helped to support the police's antinarcotics unit. In addition, the U.S. Customs Service helped to train Haitian customs and police officers on countersmuggling techniques.

In fiscal years 1995 through 2000, the United States and Canada provided most of the international assistance to the Haitian police, while the United States provided the bulk of the assistance to the judicial sector. Also, the United Nations Development Program provided most of the international support for improving the prisons. Other donors—including the United Nations, France, and the European Union—provided smaller amounts of assistance to justice institutions. Since July 2000, the United Nations has emerged as the largest donor supporting these institutions through the police and judicial assistance activities of the U.N. International Civilian Support Mission in Haiti. The mandate of this \$20 million mission runs from March 2000 through February 2001 but, as of June 2000, the mission did not have most of its staff in country yet, according to mission officials.

The United States is currently reassessing several aspects of its relationship with Haiti, based on concerns about how votes were counted in Haiti's May 2000 parliamentary and local elections. The International Criminal Investigative and Training Assistance Program terminated its assistance to the Haitian police because of congressional concerns related to events surrounding the May 2000 Haitian parliamentary and local elections. The Office of Overseas Prosecutorial Development, Assistance and Training stopped its assistance to the judicial sector because the United States and Haiti had not been able to negotiate an agreement for continuing this assistance effort.

U.S. Assistance Helped to Improve Police and Judicial Sector, but Major Shortcomings Persist

To help institutionalize democracy in Haiti, the United States provided about \$97 million in assistance from fiscal years 1995 through 2000 to help Haiti build its first civilian-controlled police force, enhance some aspects of the judicial sector, and improve the access of the population to justice. Despite some initial achievements, the Haitian police and judicial sector still suffer from major organizational problems.

Assistance Helped to Build Police Force

U.S. assistance sought to help Haiti create and strengthen a civilian-controlled police force that would be professional and respect the rights of the population. The United States provided about \$70 million in fiscal years 1995-99 for equipment for the police, construction of the police academy, and police training. The Department of Justice's International Criminal Investigative Training and Assistance Program provided most of this assistance—over \$65 million.

The U.S. assistance helped Haiti

- recruit an interim police force of about 4,000 police officers and U.N. police monitors to work with this force;

-
- establish and equip a new civilian-controlled police organization, including several specialized components, such as the investigative division (judicial police)³; the special investigations unit⁴; the crowd control unit; the special weapons and tactics unit⁵; and the Haitian Coast Guard;
 - create a police academy and recruit and train a new police force of about 6,500 police officers;
 - train police officers for the specialized units;
 - develop managerial and supervisory skills at all levels of the police force; and
 - establish an Inspector General's office for monitoring the conduct of the police force.

Other U.S. agencies, including the U.S. Coast Guard, the U.S. Drug Enforcement Administration, and the U.S. Customs Service, provided some assistance. For example, the U.S. Coast Guard provided over \$4.6 million to help organize, train, and equip the Haitian Coast Guard, which is part of the Haitian police. This assistance helped Haiti establish one Coast Guard base in Port-au-Prince, refurbish three vessels, maintain equipment, and develop capabilities for dealing with drug smuggling and illegal migration, for example.

Problems Persist in Police Force

Despite some initial achievements made possible by U.S. assistance, the current Haitian police force has major deficiencies and is considered by many U.S. and other donor officials as a largely ineffective law enforcement body. According to U.S. and other donor officials, the police force has a number of organizational weaknesses; suffers from shortages of personnel, training, and equipment; and has limited investigative capabilities. Over the past year, particularly, U.S. and other donor officials have expressed concern over the Haitian police's crippled internal

³ The judicial police conducts criminal investigations involving serious crimes, such as drug trafficking, homicide, organized crime, and counterfeiting. The judicial police is made up of the antinarcotics unit, the criminal affairs bureau, the forensics unit, the judicial intelligence and central records bureau, and the search and intervention unit.

⁴ This unit has focused on investigating high-profile crimes, including extrajudicial killings. The U.S. assistance's long-term goal was to help integrate this unit into the mainstream judicial police.

⁵ The special weapons and tactics unit responds to crises in the Port-au-Prince area. This unit receives orders directly from the Director General of the police.

oversight organization, continued corruption, and increasing signs of politicization related to recent Haitian elections.

Organizational Weaknesses

Starting in late 1994, the United States helped Haiti organize its police force so as to have the major components of a modern civilian police organization, such as an investigative unit, a crowd control unit, and a special weapons and tactics unit. However, the current organization of the Haitian police is weak, according to U.S. and other donor officials. For example, several key police units are not fully operational or not operational at all, such as the Maritime, Air, Border, Migration, and Forest Police Directorate and the Search and Intervention Brigade Directorate. A few individuals manage the existing police organization in a highly centralized manner, delegating little authority from headquarters to the field and within the police institutions in the field. The police organization is very reliant on its leadership for direction, and its lower levels show little initiative, tending to be reactive rather than actively performing community patrols. The police force has not yet developed a strong esprit de corps and discipline. During our visits to police units in Port-au-Prince, Saint Marc, and Jacmel, we saw that lower-ranking police officers did not show much respect for high-ranking officers and that many of them were milling around police facilities, reading newspapers, or watching soccer games on television.

Shortages of Personnel, Training, and Equipment

Initially, the United States sought to help Haiti recruit and train 6,500 police officers, and by 1998 the police force reached a peak of about 6,500 officers. However, shortages of personnel plague the current police force. According to the Haitian police, the force has 5,892 police officers, but according to U.S. and other donor officials, the force is actually much smaller—ranging between 3,500 and 4,500 police officers. Compared with a country like El Salvador, with 19,000 police officers serving about 6 million people, Haiti—with its approximately 8 million population—has a relatively small police force. In addition, the Haitian police has a shortage of qualified commanders and supervisors. U.S. officials told us that the current number of approximately 175 commanders is insufficient for the size of the force. Because of the shortage of supervisors, police stations and substations outside the capital of Port-au-Prince are often supervised by lower-ranking police officers.

According to U.S. officials, the police force has experienced attrition because of the police's failure to provide professional opportunities, to implement a work schedule that is better than the current work schedule of 12 hours a day 6 days a week, and to provide work opportunities in

locations near the officers' families. U.S. officials noted that police officers have left the force to join the growing private security industry, which offers fewer risks and better pay and working conditions. Also, more than 1,100 police officers were dismissed from the force since 1995 as a result of the police Inspector General's investigations into police misconduct. In addition, the police's failure to recruit new officers regularly has exacerbated the attrition of the police force. In mid-June 2000, the Haitian police, with the help of the International Criminal Investigative Training Assistance Program, was working to start recruiting new officers regularly, but the recruitment never began, in part because of the suspension of most of the U.S. assistance in July 2000. This recruitment was to focus initially on selecting about 350 new officers in the fall of 2000.

Initially the United States placed great emphasis on training the new force and setting up the police academy to continue such training. However, most of the current police force has received only basic training. For instance, commanders and supervisors have received little supervisory training. Also, police officers, after attending an initial 6-month training course at the academy, receive very little or no follow-on training unless they are assigned to a specialized unit, according to U.S. officials. Although officers in the specialized units receive more training, they still have limited technical capabilities to prevent or investigate crimes, according to U.S. and other donor officials. Most police officers do not get regular qualification training in firearms use, and, as a result, many officers are not qualified to use their weapons and cannot properly maintain their firearms, according to U.S. officials.

The United States helped Haiti equip its police force by providing police vehicles, communications systems, other equipment, and supplies. However, the current force has serious equipment shortages. During our visits to Saint Marc and Jacmel, we noticed that the police stations had very few vehicles, communications capabilities, and other police equipment to service large populations and territories under their jurisdictions. Although the specialized police units, such as the special weapons and tactics unit, generally have more resources than regular units, at times the specialized units lack the resources to maintain proficiency in the use of their equipment. For example, U.S. officials told us that the special weapons and tactics unit could not train with their issued weapons because they did not have enough ammunition. According to U.S. officials, although the Haitian Coast Guard is one of the best police units in terms of the capabilities of its staff, its effectiveness is seriously constrained by its lack of bases, personnel, and equipment, particularly in the southern part of the country

where the main cocaine-trafficking routes are located. As a result, this unit has a limited capability to stop vessels suspected of carrying illegal cargo and emigrants, according to U.S. and Haitian officials. At the time of our visit, this unit had 76 members, including 1 commander; 1 base located in Port-au-Prince; and 3 vessels. According to U.S. officials, this unit requires over 100 police officers, at least 3 bases, and more and better vessels to become an effective law enforcement organization.

Limited Investigative Capabilities

The United States helped Haiti improve the investigative capabilities of its police force by providing training, technical assistance, and donations of equipment. However, the current force has made little progress in improving its investigative capabilities. For instance, the judicial police, which is in charge of investigating many crimes, has only about 135 officers, who have received little training on investigative techniques. According to Haitian officials, this unit would need about 500 officers to be fully operational. Within the judicial police, the antinarcotics unit is too small to be effective. Until September 2000, this unit had been without a leader for several months, and it consists of only 28 officers. Under an assistance agreement between the United States and Haiti, this unit was to have had about 75 officers. According to a Haitian official, it is not clear when Haiti will assign additional officers to the unit. The administrative police—the majority of the regular police force—receives only rudimentary training to protect crime scenes, although this force has a patrol function and is generally the first to arrive at a crime scene.

Recent Problems Raising Particular Concern

Over the past year, several problems have arisen with the Haitian police that have raised particular concern for U.S. and other donor officials. These concerns relate to the weakened position of the police Inspector General's unit, the inability of the police to deal with the growing drug-trafficking threat, and the signs of politicization of the police force during this past year's extended election period.

In 1995, the United States helped Haiti establish an oversight structure to monitor the behavior of its police. However, over the past year the police oversight structure has been crippled by the unexpected departures of the Secretary of State for Public Security and the Inspector General of the police, according to U.S., Haitian, and other donor officials. These two positions are key to ensuring the internal accountability of the police force. According to the U.S. Department of State, groups reportedly associated with former President Aristide's political party mounted a public campaign calling for the resignation of the Secretary of State for Public Security. On October 7, 1999, the Secretary resigned from his position, which remains

vacant, and left the country. According to U.S. officials, the Inspector General—who was conducting investigations into narcotrafficking by police officers—unexpectedly left the force in May 2000 and has not been permanently replaced. During his tenure, the former Inspector General had initiated investigations into human rights violations, narcotrafficking, corruption, and other offenses allegedly committed by police officers. According to U.S. officials, the Inspector General's investigations had led to the dismissal of over 1,100 police officers. As reported by the Department of State, at least 58 police officers were in prison as of September 1999 on a variety of charges. The Department noted that the police more often simply discharged officers caught committing flagrant abuses rather than initiating legal proceedings against them. Since the departure of the Inspector General, investigations of police misconduct have dramatically decreased, opening the door to increased corruption within the force, according to U.S. and Haitian officials.

The United States helped establish the antinarcotics unit and the Haitian Coast Guard to address the growing drug-trafficking problem. U.S. estimates indicate that the percentage of cocaine coming into the United States through Haiti increased from 10 to 14 percent from 1998 through 1999. These estimates indicate that the cocaine flow through Haiti grew from 54 to 67 tons during this period. However, the Haitian police has been generally ineffective in countering the growing drug threat because its antinarcotics unit and Coast Guard have limited capabilities and resources. As a result, the police has conducted few major drug-related investigations successfully and does not have the resources to stop airdrops of cocaine loads to waiting land vehicles or maritime vessels, which currently account for most of the drug-trafficking growth.

The United States sought to help Haiti establish a professional and impartial police force. However, events over the past year have raised serious concerns about the impartiality of the force, according to U.S. and other donor officials. For instance, the departures of the Secretary of State for Public Security and the Inspector General of the police, and the partisan role played by some elements of the police before and after the May 2000 parliamentary and local elections, are signs of the increasing politicization of the police, according to U.S. and other donors' officials. The failure of the police to protect legal demonstrations by the opposition; the involvement of the force in arresting some opposition candidates following the elections; and the failure of the police to investigate successfully major killings, including political assassinations, committed before the elections

raised serious concerns about the impartiality of the police and further damaged the image of the police, according to U.S. and donor officials.

Because of growing U.S. concerns about the events surrounding the May 2000 elections, the U.S. government had suspended most of this assistance by September 2000. Only the U.S. Coast Guard and the Drug Enforcement Administration continue to work with and provide some assistance to their counterparts within the Haitian police.

The Haitian government is unlikely to sustain much of the progress made possible by the U.S. assistance provided to the Haitian police, according to U.S. and other donor officials. According to these officials, Haiti has limited resources to continue the activities supported by U.S. assistance. It is unlikely that the Haitian government will receive assistance from other donors to cover the gap left by the reduction in U.S. assistance.

Assistance Helped Improve Certain Aspects of the Judicial Sector

U.S. assistance also sought to help Haiti improve the effectiveness of existing judicial organizations and enhance the access of the population to justice. It also sought to help Haiti develop and implement a broad reform of the judicial sector that would, for instance, enhance the independence of the sector, modernize criminal codes, and restructure judicial organization and processes.

U.S. assistance to the judicial sector totaled almost \$27 million from fiscal years 1993 through 2000. USAID, its contractors, and the Department of Justice's Office of Overseas Prosecutorial Development, Assistance and Training provided most of this assistance under the USAID Administration of Justice Program. The bulk of the assistance, about \$23 million, funded (1) administrative enhancements for judicial institutions, such as case registration systems for the justice of the peace courts⁶ and prosecutors' offices; (2) judge and prosecutor training; and (3) the establishment and operation of the magistrate school. The remaining assistance, \$4 million, funded legal assistance and education as a means of improving the access of the population to justice.

⁶ The Haitian court structure has four major levels. From the lowest level to the highest level, they include more than 180 justice of the peace courts, 15 first instance courts, 5 appellate courts, and a Supreme Court. Appendix III describes the Haitian justice system organization.

The U.S. assistance led to some improvements in the administrative capabilities of the judicial sector, the training of magistrates and prosecutors, and the access of the population to justice. For instance, according to a 1998 evaluation of the activities conducted by one of the major USAID contractors involved in the assistance program, these activities (1) helped improve some of the administrative capabilities, such as case registration systems, in 83 of the more than 180 justice of the peace courts; (2) supported legal advisors for these and other judicial institutions; and (3) helped provide free legal assistance to the population. For example, this major USAID contractor, through several subcontractors, provided free legal assistance to a large number of people on criminal and civil matters.

Also, the Office of Overseas Prosecutorial Development, Assistance and Training helped develop case-tracking systems in prosecutor offices in 10 of the 15 judicial jurisdictions throughout Haiti. The office also provided short-term training to large numbers of judicial officials and helped establish and operate the magistrate school, where new magistrates receive long-term training to improve their legal skills and knowledge of courtroom operation. For instance, from July 1995 through October 1996, the office provided emergency short-term training to 360 judges. The office also helped develop long-term training for new magistrates in the magistrate school. Currently, 60 magistrates have graduated from the school, and 40 students at the school are completing their internships in different judicial institutions and plan to graduate in October 2000.

Serious Deficiencies Remain in the Judicial Sector

Despite U.S. assistance, the Haitian judicial sector continues to exhibit major shortcomings. It lacks independence from the executive branch and has outdated legal codes and cumbersome judicial proceedings. Also, it has inadequate infrastructure and shortages of personnel and equipment and has limited investigative capabilities. Furthermore, it suffers from corruption and an ineffective internal oversight capability, and it serves only a small portion of the population. Finally, the judicial sector has not undergone a major reform effort.

Despite the constitutional mandate for an independent judicial sector, the executive branch, through the Ministry of Justice, continues to control the judicial sector, including the judicial budget and judicial appointments, training, evaluation, and removal. The lack of independence compromises the impartiality of the judicial sector, according to U.S. and Haitian officials. Because the Haitian government has not vigorously supported

investigations and prosecutions of major crimes, including drug trafficking, major killings, and political violence, these investigations and prosecutions have moved slowly and produced very limited results, according to U.S. officials.

The judicial system is characterized by outdated legal codes and cumbersome, slow, and inflexible judicial proceedings, according to U.S., Haitian, and other donor officials. As a result, in criminal cases, many people are put behind bars in preventive detention⁷; some judicial institutions, such as investigating magistrates' offices, have large case backlogs; and criminal courts still hold few jury trials every year.⁸ During our visits to judicial facilities in Port-au-Prince and Jacmel, judicial officials emphasized the urgent need for developing and implementing a comprehensive reform of the judicial sector to modernize legal codes and streamline judicial proceedings. During our discussion with the Haitian Minister of Justice, the Minister noted that, because his predecessors had failed to reform the judicial sector, he had been working to reform the sector since assuming his position in 1999. He emphasized that he was working, with U.N. support, to develop a reform proposal and related recommendations for consideration by the next Haitian government, which will take power in February 2001.

Because of its small budget—the judicial sector receives about 11.5 percent of the budget of the Ministry of Justice—the judicial sector has personnel shortages, inadequate infrastructure, and limited equipment and supplies. For instance, during our visits to judicial institutions in Port-au-Prince and Jacmel, Haitian officials emphasized that their institutions did not have enough personnel to conduct business adequately, given the size of the populations and territories that their institutions have to serve. During our visits to judicial institutions in these locations and Saint Marc, we found prosecutors' offices, justices of the peace courts, and other courts to have very basic infrastructure. One of the courts that we visited, which serves a large population and territory, had two rooms to conduct its business, but no doors, windows, bathroom facilities, running water, or electricity. These judicial facilities also had serious shortages of equipment and supplies needed to conduct business, such as transportation, legal texts, telephones,

⁷ Most of these people are out of prison within 90 days of their detention, according to USAID.

⁸ Juries are convened only for serious criminal offenses, such as murders.

and office supplies. Haitian officials noted that the dire conditions of judicial facilities projected a bad image and did not inspire respect for their institutions, seriously undermining the confidence of the population in the judicial sector.

The judicial sector has limited capabilities to investigate and prosecute cases because judicial officials have received little professional training; have minimum resources to conduct investigations, prosecutions, and trials; receive limited support from specialized units, such as the judicial police and forensics unit; and do not have many incentives to solve major crimes, according to U.S. and Haitian officials. For instance, judicial officials emphasized that their limited training, lack of resources, and limited support had seriously hindered their ability to investigate and prosecute cases successfully. Judicial officials noted that many investigations conducted with the help of the police failed to satisfy minimum standards for evidence. As a result, they could not prosecute alleged criminals, and many cases had to be dismissed. These officials stated that, because they had little personal protection, they feared for their personal safety when dealing with high-profile cases, such as drug trafficking and political assassinations. A prosecutor who was responsible for investigating and prosecuting cases within a large jurisdiction stated that he did not have transportation to visit crime scenes, that he received little support from the police in his investigations, that he had no personal protection when dealing with high-profile cases, and, that, as a result, he and other judicial officials in similar positions had little incentive to do their jobs well.

The judicial sector also suffers from corruption and has limited internal oversight to monitor the behavior of judicial officials. For instance, despite recent pay increases, judicial officials noted that some officials are willing to accept bribes to advance cases through the cumbersome and lengthy proceedings that characterize the Haitian judicial sector. Also, according to these officials, the Ministry of Justice has a judicial inspection unit that has limited oversight capabilities and has done little to address corruption and other major problems of the judicial sector. Despite efforts to enhance this unit, it remains largely ineffective.

The judicial sector continues to provide limited access to justice for the majority of the Haitian population. For example, by not having a public defender's office, by not systematically providing legal assistance to the population, and by conducting most of its business through written procedures in French, the judicial sector remains unavailable to the

majority of the population, which is poor, illiterate, and speaks only Creole, according to documentation.

With the suspension of U.S. assistance to the Haitian judicial sector in July 2000, the Haitian government is not likely to sustain much of the progress made possible by the assistance. According to U.S. and other donor officials, Haiti has limited resources to continue the activities supported by U.S. assistance, and it is not likely that the Haitian government will receive assistance from other donors to replace the U.S. assistance.

Haitian Government Has Not Shown a Strong Political Will to Strengthen Justice Institutions

The primary factor affecting the success of U.S. assistance to improve the justice institutions in Haiti is the Haitian government's lack of clear commitment to supporting the police and judicial sectors and dealing with the main problems affecting these institutions.

The Haitian Government Lacks Strong Commitment to Strengthening the Police Force

U.S. assistance to the police has been undermined because the Haitian government—after showing a strong initial commitment to establishing a civilian-controlled police force—failed (1) to strengthen the organizational capabilities of the force; (2) to support investigations of police corruption and serious crimes; and (3) to keep the police out of politics, particularly during the past election year.

The Haitian government's failure to strengthen the organizational capabilities of the police has hindered U.S. efforts to improve the capabilities of the force, according to U.S. officials. Although the Haitian government supported the creation of the current police force and has allocated the bulk of the Ministry of Justice budget to the police and prisons—about 83 percent of this budget in 1996-97—the government has weakened the police by not filling key leadership positions, such as the Inspector General, and by not strengthening or creating key units. For instance, since the unexpected departure of the Inspector General in May 2000, his office has stopped vigorously investigating police misbehavior, including corruption. Also, some key police units that are operational, such as the Haitian Coast Guard and the antinarcotics unit, still have limited capabilities because the government has not provided needed resources and personnel. According to the Department of State, the Haitian government failed to increase the size of the antinarcotics unit, as had been

agreed to by the U.S. and Haitian governments. In addition, other key police units are not fully operational or are not operational at all because the government has not provided the needed resources.

U.S. assistance to improve the investigative capabilities of the police has been constrained by the failure of the Haitian government to vigorously support investigations of police corruption and serious crimes, including drug-related crimes and political assassinations, according to U.S. officials. In March 2000, the State Department reported that the Haitian government had failed to investigate drug-related corruption involving police officers. The Department of State also reported in July 2000 that little progress had been made in bringing to justice persons responsible for major killings, such as political killings, in Haiti. The Department of State said that the government of Haiti has "a general record of recalcitrance and foot-dragging in pursuing cases of extrajudicial and political killings." According to the Department of State, the U.S. government remains concerned about the government of Haiti's lack of support for the Haitian police's special investigations unit, which has been responsible for investigating major killings, including political assassinations. Such lack of support is manifested by a failure to maintain the human resources of the unit, which have declined by about 80 percent since 1997.

U.S. assistance to the Haitian police has also been undermined by the Haitian government's failure to keep the police out of politics during the last year. The force's inaction during several violent campaign incidents; the force's failure to investigate political assassinations; and the force's actions following the May 2000 elections, which led to the arrest of several political candidates, showed the government's lack of commitment to strengthening the police and seriously compromised the impartiality and image of the police. For instance, the police lost credibility by failing to protect facilities and activities of the opposition during the recent political campaign and by arresting opposition candidates following the May 2000 elections. According to the Haitian police, the force made 146 arrests around the time of these elections, from May 16 until June 12. About one-third of those arrested were members of the opposition, including several opposition candidates.

Haitian Government Also Lacks Strong Commitment to Enhancing the Judicial Sector

U.S. assistance to the judicial sector has been undercut because the Haitian government, after initially supporting the assistance effort, failed to follow through in implementing a broad reform of the judicial sector, adopt and institutionalize many of the improvements made possible by the assistance, provide the resources needed to operate the sector adequately, build an oversight capability to monitor the sector, and vigorously support the prosecution of major crimes.

The Haitian government did not follow through in implementing a broad reform of its legal codes and judicial organizations and processes—some of the measures that donors consider key to addressing the main problems of the sector. The Haitian government has taken some steps that may eventually lead to the implementation of a comprehensive reform of the judicial sector. These steps included enacting judicial reform-related legislation in 1998, increasing judicial salaries, and pursuing further reform plans, such as expanding the use of Creole in judicial proceedings. However, none of these steps has moved significantly toward addressing the main shortcomings of the judicial sector.

Many of the improvements made possible by U.S. assistance have not been institutionalized because the Haitian government did not assume ownership of most of them. Although the Haitian government assumed responsibility for most of the funding for the magistrate school that was created with U.S. and other donors' support, the government did not adopt and fund most of the improvements made possible by U.S. assistance in the justice of the peace courts, prosecutors' offices, and 10 judicial jurisdictions. For example, during our visit to Jacmel we found that administrative improvements, such as case registration systems, made to the justice of the peace courts during the first several years of U.S. assistance had disappeared after U.S. assistance to these courts stopped in August 1999. In the absence of further U.S. assistance, U.S. and Haitian officials were concerned that the rest of the improvements made to the judicial sector—particularly in the prosecutors' offices and in 10 of the 15 judicial jurisdictions—would disappear in the short term. U.S. officials and Haitian contractors noted that the enhancements to 1 of the 10 jurisdictions had practically faded away during the previous year because the U.S. assistance had not been implemented in that jurisdiction during that period.

Also, the Haitian government has not provided the physical and human resources needed to operate judicial institutions. During our visits to judicial institutions in Port-au-Prince, Saint Marc, and Jacmel, we saw that

the poor physical conditions and the lack of personnel and equipment overwhelmed the limited capabilities of these judicial institutions. According to U.S. and Haitian officials, conditions were much worse in the judicial facilities that had not received any U.S. and other donor assistance. U.S. assistance helped fewer than half of the justice of the peace courts and only 10 of the 15 judicial jurisdictions.

The improvements to the judicial sector made possible by U.S. assistance have been limited because the Haitian government has not put in place an effective oversight capability to monitor the judicial sector. The Ministry of Justice has a judicial inspection unit that has limited oversight capabilities and physical and human resources to deal with the problems of the sector, such as judicial corruption.

The Haitian government's failure to vigorously support investigations and prosecutions of serious crimes, such as drug-related crimes and political assassinations, has hindered the improvements in the prosecutorial capabilities of the judicial sector made possible by the U.S. assistance. According to Haitian officials, prosecutors and investigating magistrates do not have an incentive to investigate and prosecute major criminal cases and, if they do investigate, they do it with the knowledge that they are risking their personal security.

Conclusions

We recognize that Haiti has limited financial, physical, and human resources and that achieving major progress in building and reforming effective justice institutions is a long-term effort, as has been the case in other countries in the hemisphere pursuing similar goals. The United States provided assistance to Haiti, generally without specific conditions, that helped establish the Haitian police and improve aspects of the judicial sector and the access of the population to justice. However, despite the achievements made possible by U.S. assistance and initial Haitian efforts, both the Haitian police and the judicial sectors still have major shortcomings. The Haitian government failed to strengthen its police force and ensure its impartiality. Also, the Haitian government did not institutionalize many of the improvements made possible by U.S. assistance and did not implement the broad reform of the judicial sector needed to address its main problems. Unless the Haitian government commits to strengthening and reforming its justice institutions, these institutions will continue to face major problems and be ineffective. Without that commitment, further U.S. assistance will likely continue to have limited impact on these institutions.

The United States is currently reassessing its assistance to the Haitian justice system and has to decide whether to continue withholding most of this assistance or provide additional assistance. We believe that, if the United States decides to provide any further assistance to the Haitian justice system, it is essential—through conditions placed on the implementation of this assistance—that the Haitian government take the necessary actions to strengthen the justice system, such as reforming justice institutions, assuming ownership of the improvements made possible by the assistance, and funding its justice system adequately.

Recommendation for Executive Action

If the United States decides to renew its assistance to the Haitian justice system, we recommend that the Secretary of State place specific, performance-related conditions on the implementation of this assistance to encourage the Haitian government to strengthen its justice institutions. Such assistance with conditions will encourage the Haitian government to implement reforms and other measures aimed at establishing strong and effective police and judicial institutions, adopting and institutionalizing the progress that U.S. programs help achieve, and providing adequate funding to its police and judicial institutions. These conditions should incorporate specific goals, performance measures, and time frames.

Agency Comments

We obtained written comments on a draft of this report from the Department of State (see app. IV) and USAID (see app. V). The Department of State and USAID agreed with the report, and the Department concurred with the report's recommendation. We also received oral comments on this draft from our Liaison at the Department of Justice, who stated that the Department agreed with the report.

In its comments, the Department of State confirmed many of the points made in the report. It noted that Haiti has made some significant strides since 1994, including the creation of Haiti's first civilian police force. The Department also noted that part of the Haitian police's problem rests with the lack of judicial reform due to the lack of a functioning parliament since 1997. In addition, State noted that the government of Haiti, with one-tenth the average gross domestic product of its Latin American and Caribbean neighbors, has many demands on its scant resources.

In its comments, USAID stated that the report presents an objective assessment of the complex problems facing the Haitian judicial system and

the accomplishments of U.S. programs in police training and judicial reform. It noted that the conclusions are also consistent with its own that the commitment of the Haitian government is essential to implement fundamental reforms and sustain progress.

Scope and Methodology

We based our review on program documentation and evaluations provided by U.S. and other donor organizations involved in giving assistance to the Haitian justice system during fiscal years 1995-2000; interviews with U.S., other donor, and Haitian officials; meetings with representatives of nongovernmental and business organizations; and site visits during June 2000 to four Haitian cities. The bibliography lists some of the documents we used in this review.

To identify (1) the results of the U.S. assistance provided to Haiti for enhancing its justice system since 1994 and the current problems affecting justice institutions and (2) the factors that have affected the success of this assistance, we conducted interviews in Washington, D.C., with cognizant U.S., other donor, and nongovernmental organization officials, including senior officials from the Departments of State, Justice, Defense, and the Treasury; the U.S. Coast Guard; and the U.S. Agency for International Development.

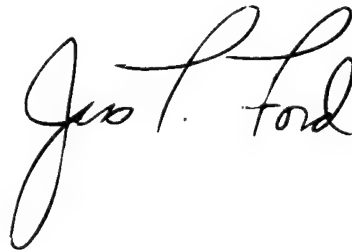
In Haiti, we visited Port-au-Prince, Jacmel, and Saint Marc, which are three major cities whose justice institutions have received U.S. assistance. In Port-au-Prince, we interviewed key U.S., other donor, Haitian, and private organization officials, including representatives from the U.S. embassy, the Justice Department, the U.S. Agency for International Development, the governments of Canada and France, the United Nations Development Program, the U.N. International Civilian Support Mission in Haiti, the Haitian Ministry of Justice, the Haitian police, the Haitian judicial institutions, and nongovernmental and business groups. We also met with contractors and consultants who had worked on the implementation of the assistance provided to Haiti by the Justice Department and the U.S. Agency for International Development. In Port-au-Prince and the other three cities, we visited facilities of the Haitian police and judicial sector, including the police academy, magistrate school, police stations and units, Haitian Coast Guard, courts, and a prison. In these facilities, we talked to managers, instructors, students, police officers, prosecutors, magistrates—including judges and investigating magistrates—court clerks, and prison officials.

Our discussion of the Haitian justice system organization in appendix III is based primarily on interviews of Haitian and U.S. officials and secondary sources. Except for the Haitian constitution, for the most part, we did not review specific Haitian laws.

We performed our work from November 1999 through September 2000 in accordance with generally accepted government auditing standards.

We are providing copies of this report to the Honorable Madeleine K. Albright, the Secretary of State; the Honorable Janet Reno, the U.S. Attorney General; the Honorable J. Brady Anderson, Administrator for the U.S. Agency for International Development; and interested congressional committees. We will make copies available to others upon request.

If you and your staff have any questions regarding this report, please contact me at (202) 512-4128. Other GAO contacts and staff acknowledgments are listed in appendix VI.

A handwritten signature in black ink, reading "Jess T. Ford". The signature is written in a cursive style with a large, stylized "J" and "F".

Jess T. Ford
Director
International Affairs and Trade

U.S. and Other Donors' Assistance to the Haitian Police, Fiscal Years 1995-2001

The United States—the largest international donor to Haiti—has provided about \$70 million in assistance to develop and strengthen the Haitian civilian police force since late 1994. The Department of Justice's International Criminal Investigative Training Assistance Program has provided most of this U.S. assistance. The Department of Transportation's U.S. Coast Guard, the Department of Justice's U.S. Drug Enforcement Administration, and the Department of the Treasury's U.S. Customs Service have provided the remaining assistance to the Haitian police. Overall, the U.S. assistance has funded police recruitment and training activities, donations of equipment, construction of police facilities, and efforts to improve managerial capabilities. At the end of July 2000, the United States stopped most of its assistance to the Haitian police. Other donors have also provided assistance to help develop this police force.

International Criminal Investigative Training Assistance Program Aid

After Haiti's return to democracy in late 1994, the International Criminal Investigative Training Assistance Program implemented most of the assistance provided to the Haitian police—more than \$65 million in assistance in fiscal years 1995-99. Most of this assistance—more than \$51 million—went to support training activities, finance donations of equipment, and to build the police academy. Table 1 depicts this program's assistance to the Haitian police force.

Table 1: International Criminal Investigative Training Assistance Program Assistance to the Haitian Police, Fiscal Years 1995-99

Activity	Amount
Police training and donations of equipment	\$34,402,963
Construction of police academy	18,680,474
Program headquarters expenses	6,357,274
U.S. embassy support and program expenses	2,477,990
Staff salaries and benefits	1,838,928
Staff travel expenses	967,604
Antinarcotics training	347,029
Program audits	221,738
Total	\$65,294,000

Source: International Criminal Investigative Training Assistance Program.

Initially, the program's activities involved helping Haiti (1) remove the police from the control of the Haitian armed forces; (2) develop and implement a basic training program for former members of the military who had been cleared to perform functions as an interim police force; and (3) recruit, train, and deploy U.N. police monitors to work with this force. While working with the Haitian government and the United Nations to form this interim police force, the program also assisted in developing a new, professional civilian police force—the Haitian National Police.

To assist in the formation of the new police force, the International Criminal Investigative Training Assistance Program supported recruiting, training, and deploying about 6,500 police officers and establishing a police academy and various other police facilities. Also, the program conducted specialized training and provided equipment and supplies for special police units, including the antinarcotics unit, the crowd control unit, the forensics unit, the judicial police, the operations center, the special investigations unit, and the special weapons and tactics unit. In addition, the program provided the new police force with equipment, such as vehicles, photocopiers, forensic devices, and radios. Moreover, the program helped the Haitian police develop management and administrative capabilities and establish new policies and procedures.

Over the last year, the program helped to install a nationwide police radio network, develop and implement a uniform inventory system of material and human resources, conduct an assessment of the police's Personnel Directorate, provide training and equipment to the new forensics unit, and conduct 34 police training courses. In addition to this assistance, the program provided about \$9,000 a month in assistance to operate and maintain the generators that supply electricity¹ to the police academy, which also houses some of the special police units. At the end of July 2000, as noted previously, the program's assistance to the Haitian police stopped because of congressional concerns related to events surrounding the May 2000 Haitian parliamentary and local elections.

Other U.S. Agencies' Aid

U.S. law enforcement agencies, including the U.S. Coast Guard, the U.S. Drug Enforcement Administration, and the U.S. Customs Service, have also provided assistance to build the Haitian police.

¹ The supply of electricity is sporadic in Haiti, making generators necessary for a regular source.

The U.S. Coast Guard has provided most of the remaining U.S. assistance to the Haitian police force. Specifically, in fiscal years 1996-99, the U.S. Coast Guard provided more than \$4.6 million in assistance to the Haitian Coast Guard, which is part of the Haitian police. The U.S. Coast Guard has advised, worked with, and provided technical assistance and equipment to the Haitian Coast Guard. The U.S. Coast Guard has assisted the Haitian Coast Guard with recruitment, basic maritime law enforcement, seamanship training, technical training, organizational development, the refurbishment of a base in Port-au-Prince, the construction of a new base in Cap-Haitien, and the refurbishment of seized boats and old Haitian vessels.

The U.S. Drug Enforcement Administration has seven agents working with the Haitian police's antinarcotics unit. These agents, who are divided into airport, maritime, and target teams, work on antinarcotics cases and provide technical support to their Haitian counterparts.

The U.S. Customs Service trained Haitian police, customs, and port officers on narcotics interdiction in fiscal years 1998 to fiscal year 1999. During this period, the U.S. Customs Service conducted nine training courses.

Since the end of July 2000, the U.S. Coast Guard and the Drug Enforcement Administration have been the only U.S. agencies that have continued to work with and provide some assistance to their counterparts within the Haitian police.

Other Donors Have Also Provided Assistance

Canada, France, and the United Nations have also provided assistance to help develop the Haitian police. Canada—the second largest international donor—provided \$30 million in assistance to build this police force in fiscal years 1995-2000. Until mid-June 2000, the Royal Canadian Mounted Police/Canadian International Development Assistance project had 11 technical advisors in Haiti. These advisors worked with the Haitian police on training and management issues. In July 2000, Canada reduced its support to the police and decided to focus most of its future assistance on the police academy.

France has provided about \$834,000 for technical assistance to the Haitian judicial police from late 1997 through 2000. This technical assistance has focused on creating a filing system for criminal cases, building a legal-medical institution to help the judicial police identify a victim's cause of death, and creating a search and intervention brigade unit.

Appendix I
U.S. and Other Donors' Assistance to the
Haitian Police, Fiscal Years 1995-2001

The United Nations has had various assistance missions in Haiti since 1994, all of which have had a law enforcement assistance component. Because of the recent reductions in U.S. and Canadian assistance to the Haitian police, the U.N. International Civilian Support Mission in Haiti has emerged as the largest donor to this police force. This mission, which continues the work of previous U.N. missions, has a mandate that emphasizes institution building and capacity development. The mission intends to provide about \$20 million in assistance for improving the police, the judicial sector, and human rights organizations and activities. The mission plans to provide about one-third of the assistance—which will be delivered by about 30 technical advisors—to strengthen the middle- and upper-management levels of the Haitian police. The mission, which began in mid-March 2000, will continue through February 2001. As of mid-June, the mission was just starting to provide assistance to Haitian justice institutions.

The United Nations Development Program provided \$6 million in assistance to the Haitian police between August 1997 and February 2000. Specifically, it provided technical assistance to the Office of the Director General; the Office of the Inspector General; and the Western Departmental Directorate, which includes the Port-au-Prince metropolitan area. It also supported the rehabilitation of police stations and supplied equipment to improve the working conditions of the police force. In addition, the program provided \$4.5 million in assistance to rehabilitate the National Penitentiary in Port-au-Prince. The program also worked to improve the administrative capabilities of the Haitian prisons by developing and implementing a case registration system.²

² The U.S. Agency for International Development (USAID) provided funding to the United Nations Development Program for improving Haitian prisons, which are currently the responsibility of the Haitian police.

U.S. and Other Donors' Assistance to the Haitian Judicial Sector, Fiscal Years 1993-2001

The United States has provided about \$27 million in assistance to improve the Haitian judicial sector since 1993. The U.S. Agency for International Development, its contractors, and the Department of Justice's Office of Overseas Prosecutorial Development, Assistance and Training have implemented most of this assistance under the USAID Administration of Justice Program. Under this program, USAID and its contractors have provided about \$20 million in aid. Also, under this program, the Office of Overseas Prosecutorial Development, Assistance and Training has provided \$7 million in assistance. Overall, the USAID Administration of Justice Program has focused on enhancing judicial organizations and the access of the population to justice. As of the end of July 2000, the United States stopped its assistance to the Haitian judicial sector. Other donors have also helped to enhance this sector since late 1994.

The U.S. Agency for International Development and Its Contractors

Since Haiti's return to democracy in late 1994, USAID and two of its contractors—Ronco Consulting Corporation and Checchi & Company Consulting, Inc.—implemented most of the assistance provided to Haiti under the USAID Administration of Justice Program—about \$20 million. Table 2 shows the overall assistance provided under the USAID Administration of Justice Program.

Table 2: USAID Administration of Justice Program Assistance to Haitian Judicial Sector, Fiscal Years 1993–2000

Dollars in millions	
Organization and activity	Amount
USAID	\$5.4
Direct aid to Ministry of Justice	2.4
Other technical and equipment assistance	0.8
USAID management	2.0
Audit of Checchi & Company Consulting, Inc.	0.2
Ronco Consulting Corporation (Interim Administration of Justice Program)	2.8
Checchi & Company Consultants, Inc.	11.5
Legal assistance and education	4.0
Case registration and court management	3.2
Judicial mentoring	1.8
Other technical and equipment assistance	2.5

Appendix II
U.S. and Other Donors' Assistance to the
Haitian Judicial Sector, Fiscal Years 1993-
2001

(Continued From Previous Page)

Dollars in millions	
Organization and activity	Amount
Department of Justice's Office of Overseas Prosecutorial Development, Assistance and Training	7.0
Magistrate school	2.1
Case tracking system	0.5
Model jurisdiction program and related assistance	4.4
Total	\$26.7

Source: GAO analysis of USAID data.

USAID provided \$2.4 million in direct aid and \$0.8 million in technical and equipment assistance to the Haitian Ministry of Justice in fiscal years 1993-2000 and incurred \$2.2 million in management costs for its Administration of Justice Program.

Ronco provided \$2.8 million in aid during fiscal years 1995 and 1996. This contractor primarily focused on refurbishing, equipping, and providing administrative and logistical support to the magistrate school established in 1995.

Checchi provided \$11.5 million in assistance from August 1995 to August 1999. Under its contract with USAID, Checchi focused its efforts on three activities: legal assistance and education, case tracking and court management, and judicial mentoring.¹

The legal assistance and education activity sought to improve the access of the population to justice and enhance the capabilities of justice officials. Checchi provided \$4 million in assistance to support legal aid and education. Checchi provided legal aid to people outside and inside of prisons largely through nongovernmental organizations, bar associations, and law schools. Also, Checchi conducted a legal education and outreach effort to inform Haitian citizens of their rights and responsibilities under the law, mainly through public seminars and forums. In addition, Checchi conducted training for legal professionals—including paralegals and law students. Also, it conducted seminars and on-the-job training for personnel of the justice of the peace courts.

¹Under contract with USAID, Creative Associates International and the Defense Contract and Audit Agency evaluated and audited Checchi, respectively. Overall, these organizations did not find any major problems in their reviews of Checchi. See bibliography for the names of the documents produced by these organizations.

The case registration and court management activity sought to enhance the effectiveness and accountability of the justice of the peace courts by developing basic administrative systems and practices. Checchi provided \$3.2 million in support of this activity. Checchi focused on developing and implementing a uniform case registration and filing system in 83 of the 180 justice of the peace courts. This effort involved, for example, (1) developing forms and procedures for registering complaints and criminal charges, (2) creating a public information board so the public could learn about the hearing schedules and the current status of prisoners, (3) developing a monthly activity report for each prosecutor overseeing a justice of the peace court, and (4) training personnel on how to work with these improvements.

The judicial mentoring activity was designed to help judges of the justices of the peace courts improve their basic judging and administrative skills. Checchi provided \$1.8 million in assistance to support this activity. Through this activity, Checchi supported 23 justices of the peace courts in the Port-au-Prince, Jacmel, and Saint Marc judicial jurisdictions. In this effort, Checchi employed as mentors former high-ranking judges, including a former Chief Judge of Haiti's Supreme Court. Mentors provided one-on-one coaching on issues, such as rules of evidence, fact-finding, ethics, and human rights. Also, they helped the justice of the peace courts draft rules of practice and helped improve court operations, such as setting court calendars, court hours, court fees, and prison visits. In addition, mentors conducted regional seminars on specialized issues, such as drug and land issues.

In addition to these activities, Checchi provided \$2.5 million in other technical assistance and equipment support to the Ministry of Justice and the judicial sector.

USAID and its contractors completed most of its activities under the Administration of Justice Program by August 1999. USAID did not implement its proposed \$15-million Rule of Law Program, which sought to continue the Administration of Justice Program, because the agency and Haiti could not reach an agreement for implementing the program.

Office of Overseas Prosecutorial Development, Assistance and Training Aid

The Office of Overseas Prosecutorial Development, Assistance and Training had two primary objectives under the USAID Administration of Justice Program: (1) to provide training to judges, prosecutors, and investigating magistrates; and (2) to improve the administrative capabilities of judicial institutions. To accomplish the first objective, this office supported the creation of a magistrate school to provide training as part of a judicial career path. To achieve the second objective, the office sought to improve the capabilities of the prosecutors' offices and later to expand these capabilities to other judicial institutions.

In July 1995, the Haitian Ministry of Justice, with the support of the United States and France, established the magistrate school on the grounds of the former Haitian military academy in Port-au-Prince. The Office of Overseas Prosecutorial Development, Assistance and Training provided \$2.1 million in assistance to support the development of this school between fiscal years 1995 and 2000. The office took the lead in developing and delivering short-term and long-term training for magistrates at the school based upon a judicial career path devised by the office in consultation with France and the Ministry of Justice. The office initiated short-term training courses in order to provide continuing legal education for sitting judges. The office developed long-term training for new magistrates and participated in developing minimum admission requirements for this training. Also, the office assisted the Ministry of Justice in developing and strengthening the judicial career. This involved helping the Ministry of Justice revise salaries for magistrates, develop criteria and draft legislation for evaluating and removing magistrates, systematize a methodology for judicial placements, and develop legislation for regulating the magistrate school. In addition, the office helped design a performance evaluation for all magistrates, which the Ministry of Justice did not implement.

The Office of Overseas Prosecutorial Development, Assistance and Training also supported enhancing the administrative capabilities of the prosecutors' offices by implementing a case-tracking system within specific jurisdictions at a cost of \$0.5 million. The office also provided \$4.4 million in assistance to expand the administrative capabilities of these and other judicial institutions within these jurisdictions. In fiscal year 1996, the office began to provide assistance in six judicial jurisdictions—Cayes, Petit Goave, Jacmel, Saint Marc, Gonaives, and Cap-Haitien. By August 1998, the office had expanded its assistance to 10 jurisdictions, with the addition of Port-au-Prince, Mirebalais, Grand Riviere du Nord, and Aquin. The assistance was designed to apply practices and lessons taught during

Appendix II
U.S. and Other Donors' Assistance to the
Haitian Judicial Sector, Fiscal Years 1993-
2001

in-service training sessions at the magistrate school. Initially, it focused on implementing a case-tracking system in the prosecutors' offices, and training prosecutors, magistrates, and clerks in its use. This case-tracking system was similar to the case registration systems implemented by Checchi in the justice of the peace courts.

In 1997, the Office of Overseas Prosecutorial Development, Assistance and Training expanded its assistance to encompass the prosecutors' offices, investigating magistrate offices, first instance courts, regional prisons, and justice of the peace courts. With this expansion, the office's activities grew to include monitoring prison conditions and visiting prisoners; assisting with the organization and scheduling of criminal jury trials; and coaching prosecutors, investigating magistrates, judges, and juries on trial procedures and responsibilities. Also, the office's activities involved regional training sessions that focused on issues specific to individual jurisdictions. In addition, these activities included holding numerous conferences and seminars jointly attended by police officers, prosecutors, and magistrates to foster greater understanding and professional relations among these justice officials.

By the end of July 2000, the Office of Overseas Prosecutorial Development, Assistance and Training stopped its assistance to the Haitian judicial sector because the United States and Haiti had not been able to reach an agreement for continuing this assistance.

Other Donors Have
Also Provided
Assistance

Since the restoration of democracy in Haiti in 1994, other donors have provided about \$17 million in assistance to enhance Haitian justice system institutions, including the Ministry of Justice, the judicial sector, and the prisons. These donors have included Canada, France, the European Union, and the United Nations. Table 3 depicts the assistance provided to the judicial sector by the United States and other donors.

Appendix II
U.S. and Other Donors' Assistance to the
Haitian Judicial Sector, Fiscal Years 1993-
2001

Table 3: Assistance Provided by the United States and Other Donors to the Haitian Judicial Sector, Fiscal Years 1993-2001

Dollars in millions	
Donor	Amount
United States	\$26.7
Canada	5.5
France	0.9
U.N. Missions to Haiti	7.3
Previous missions	0.3
Current mission	7.0
United Nations Development Program	1.0
European Union	1.9
Total	\$43.3

Source: GAO analysis of USAID and United Nations Development Program data.

From fiscal years 1995 to 2000, Canada provided \$5.5 million in assistance primarily for the construction or rehabilitation of 14 out of 15 first instance courts. Also, Canada helped to design a case registration and tracking system for the first instance courts, which is similar to the systems U.S. assistance helped put in place in the justice of the peace courts and the prosecutors' offices. However, in June 2000, Canada stopped its assistance to the judicial sector because Canada and Haiti had not been able to reach an agreement for continuing this assistance.

France has provided about \$1 million in assistance to develop long-term training at the magistrate school. The European Union provided almost \$2 million in assistance to support the work of a judicial reform commission, which produced a 1998 reform proposal. This proposal was never implemented.

The United Nations has provided \$8.3 million in assistance to improve the justice system. Two United Nations missions to Haiti have provided \$7.3 million in assistance to improve the judicial sector. The current U.N. International Civilian Support Mission in Haiti intends to provide most of this assistance—\$7 million—between March 2000 and February 2001. Also, in June 2000, the United Nations Development Program decided to provide about \$1 million in technical assistance to the Ministry of Justice to support the development of a comprehensive package of recommendations and legislative proposals for reforming the justice system, including its criminal

Appendix II
U.S. and Other Donors' Assistance to the
Haitian Judicial Sector, Fiscal Years 1993-
2001

codes and judicial institutions and processes. The program will provide support to the working groups that the ministry put in place for this purpose in 1999. The ministry and the program intend to restructure these groups so that the views of not only the Haitian government but also civil society are well represented in the reform package. The ministry and the program expect that this reform package will be ready by the time a new Haitian President starts his term in office in February 2001.

The Haitian Justice System Organization

Under the President of Haiti, the Prime Minister controls 14 ministries, including the Ministry of Justice. In turn, the Ministry of Justice controls the police, the judicial sector, and the prisons. The current Haitian constitution was adopted in 1987 and established a national government with three independent branches: executive, legislative, and judicial. However, despite the constitutional mandate for an independent judicial sector, the executive branch, through the Ministry of Justice, continues to control this sector.

The Haitian Ministry of Justice

The Minister of Justice heads the Ministry of Justice. In 1996, the ministry had about 400 employees; however, this number has declined in recent years, according to a U.N. study. Most of these employees were involved in administrative tasks, and few of them were experienced lawyers. The ministry, with support from Canada, was until recently working to improve its human resources by hiring professionals and training its personnel. However, this effort is not likely to continue at the same levels now because Canada has reduced most of its assistance to the ministry. The Minister also controls the functioning of the Haitian National Police, the prisons, and the judicial sector, including the courts and the prosecutor's offices.

The Haitian Police

A Director General heads the Haitian National Police, which was established in December 1994. The Director General controls the offices of the police, including the Central Directorate for the Judicial Police and the Inspector General.¹ The Judicial Police is a specialized unit that conducts criminal investigations and works with prosecutors and investigating magistrates. The Director General also controls the Haitian Coast Guard.

According to Haitian police records, the Haitian police has 5,892 officers. However, this police force is smaller, according to U.S., Haitian, and other donor officials. Estimates about the size of this force range from 3,500 to 4,500 police officers.

Following Haiti's return to democracy in 1994, the Haitian armed forces were disbanded. About 3,000 former soldiers became part of the 4,000-member Interim Public Security Force that was mandated to maintain

¹ The Inspector General also reports directly to the Minister of Justice.

public safety until a new Haitian police force could be trained and deployed. In early 1996, this interim force was dismantled when the training and deployment of a new civilian-controlled police was complete. Few former soldiers who served in the interim force were among the 6,500 individuals who became members of the new force.

Subsequently, other former soldiers joined the Haitian police, particularly at the higher ranks. Confronted in 1996 with a limited pool of talent from which to draw mid-level police commanders and facing vacancies in 85 percent of the positions, the Haitian government began incorporating into these positions former soldiers who had been cleared from human rights violations. The U.N. International Civilian Mission in Haiti monitored this process, according to the Department of State. By 1999, several hundred former soldiers had assumed leadership positions throughout the police hierarchy. According to the Department of State, the reported number of former soldiers in the Haitian police is close to 1,000.

Since 1997, the Director General has controlled the Haitian prisons. Haiti has 19 prisons. The main prison—the national penitentiary—is located in Port-au-Prince. The Haitian prison population grew from 2,691 prisoners in December 1996 to 3,852 prisoners in December 1999. The national penitentiary population grew from 972 prisoners to 1,831 prisoners during the same period.

Haitian Judicial Sector

Haiti's judicial sector applies the Napoleonic Codes in effect in France in the early 1800s. The Haitian Criminal Code—which defines crimes and specifies punishments—dates back to 1832. The Code of Criminal Procedure—which establishes rules for arresting, investigating, and prosecuting people accused of a criminal offense—was enacted in 1835. Although these codes have been amended, they remain outdated, according to U.S. and Haitian officials. The Code Civil, the Code de Lois Usuelles, and the Code of Civil Procedure cover civil matters and procedures.

Several recent legal texts, including the Haitian constitution of 1987, define the administration of justice and general court structure, in which judges, prosecutors, investigating magistrates, defendants, lawyers, paralegals, and judicial police officers interact. This structure has four major levels, and the courts in these levels hear criminal, civil, and commercial cases. From the lowest level to the highest level, they include the justice of the peace courts, the first instance courts, the appellate courts, and the Supreme Court.

Haiti has over 180 justice of the peace courts, each generally employing a judge, an assistant judge, and a clerk. Because these courts are the primary points of entry to the justice system, they hear a large number of criminal, civil, and commercial cases. The justice of the peace courts have jurisdiction over minor criminal offenses with potential sentences of 6 months or less, and small claims for civil and commercial cases. If the justice of the peace court determines it has jurisdiction over a matter, the court will hear the case and render a decision. If the court rules that the charge or claim exceeds the court's authority for judgment, the matter is referred to the first instance court that oversees the justice of the peace court.

Haiti has one first instance court located in each of its 15 judicial districts. These courts have, at least, a judge, an investigating magistrate, a prosecutor, and a clerk. These courts deal with criminal offenses with potential sentences of 6 months to 5 years as well as major criminal offenses with potential sentences of more than 5 years. These courts also hear civil and commercial cases that involve large claims. In certain cases defined by law, sentences of the justice of the peace courts may be appealed to the first instance courts.

Haiti has five appellate courts, each overseeing three first instance courts. Each appellate court has, at least, one presiding judge, four judges, a prosecutor, an assistant prosecutor, and three clerks. Any decision of a lower court may be appealed to the appellate court having jurisdiction over the lower court. Decisions of the appellate courts may also be appealed to the Supreme Court. In some cases, decisions of the first instance courts may be appealed directly to the Supreme Court.

The Supreme Court is located in the Palace of Justice in Port-au-Prince. It has a presiding judge, 11 judges, a prosecutor, 3 assistant prosecutors, and 7 clerks. It hears cases from the appellate courts. The court is divided in two sections, which sit separately. The two sections sit together when a case comes before the court on a second appeal, either to review a case involving a major offense, or to rule on the constitutionality of a particular law.

Comments From the Department of State



United States Department of State

Chief Financial Officer

Washington, D.C. 20520-7427

October 4, 2000

Dear Ms. Westin:

We appreciate the opportunity to review your draft report, "FOREIGN ASSISTANCE: Any Further U.S. Assistance to Haitian Justice System Should Be Linked to Performance-Related Conditions," GAO-01-24, GAO Job Code 711466.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Mr. Dennis Linskey, Deputy Director, Haiti Working Group, Bureau of Western Hemisphere Affairs, at (202) 647-5088.

Sincerely,

A handwritten signature in dark ink, appearing to read "James L. Millette".

James L. Millette, Acting

Enclosure:

As stated.

cc:
GAO/IAT - Ms. Hughes
State/WHA/HWG - Mr. Linskey

Ms. Susan S. Westin,
Managing Director,
International Affairs and Trade,
U.S. General Accounting Office.

Appendix IV
Comments From the Department of State

Department of State Comments on the GAO Draft Report,
"FOREIGN ASSISTANCE: Any Further U.S. Assistance to
Haitian Justice System Should Be Linked to Performance-
Related Conditions, GAO-01-24, GAO Job Code 711466

The GAO draft Report on Foreign Assistance to the Justice Sector in Haiti overall portrays accurately the impact of U.S. efforts to rebuild Haiti's police and judicial system since the 1994 restoration of the democratically-elected government. The State Department agrees that the commitment of the Haitian government to reform the judicial sector has tapered off in recent years. Therefore, it concurs with the GAO recommendation that future assistance needs to be contingent on Haiti meeting performance-related conditions. However, the State Department wishes to underscore that Haiti has made some significant strides since 1994: the creation of the Haitian National Police (HNP), the first civilian police force in Haiti's almost 200-year history; and the dramatic decrease in human rights abuses that were systemic during the *de facto* and Duvalier eras.

Although, with the exception of some specialized units, police training has not advanced beyond the basic level and power is still centrally focused, the problem rests in part, with the lack of judicial reform due to the lack of a functioning parliament since 1997. As a consequence, the police have struggled to reconcile antiquated laws, which have not been revised since the 1840's, with the realities of 21st century policing. In addition, the government of Haiti, with one-tenth the average GDP of its Latin American and Caribbean neighbors has many demands on its scant resources. As one Congressman noted during the House International Relations hearings on September 20, "Haiti is a country that needs everything now."

Comments From the U.S. Agency for International Development



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

OCT 5 2000

Mr. Henry L. Hinton, Jr.
Assistant Comptroller General
National Security and International Affairs
Division
U.S. General Accounting Office
441 G Street, N.W. - Room 4039
Washington, D.C. 20548

Dear Mr. Hinton:

I am pleased to provide the U.S. Agency for International Development's (USAID's) formal response on the draft report entitled "Foreign Assistance: Any Further U.S. Assistance to Haitian Justice System Should Be Linked to Performance-Related Conditions" (October 2000).

We have reviewed the draft report and believe that the GAO presents an objective assessment of the complex problems facing the Haitian judicial system and the accomplishments of U.S. programs in police training and judicial reform. The conclusions also are consistent with our own that the commitment of the Haitian government is essential to implement fundamental reforms and sustain progress. As noted in the report, in the areas where we have had the full cooperation and support of the Haitian government, we have seen positive results, which demonstrate that improvement in the judicial system can be achieved over time. Given the severely limited human and financial resources available in Haiti, justice sector reform will remain a long-term and difficult process that will require the continued engagement by the donor community.

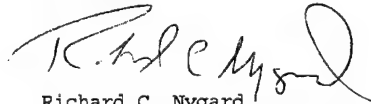
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Appendix V
Comments From the U.S. Agency for
International Development

2

Thank you for the opportunity to respond to the GAO
draft report and for the courtesies extended by your staff
in the conduct of this review.

Sincerely,



Richard C. Nygard
Acting Assistant Administrator
Bureau for Management

GAO Contact and Staff Acknowledgments

GAO Contact

Virginia Hughes (202) 512-5481

Acknowledgments

In addition to the person named above, Juan Tapia-Videla, David Bernet, Lee Kaukas, Richard Seldin, Steve Iannucci, and Douglas Ferry made key contributions to this report.

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